



## **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OPP-2011-0374; FRL-9758-01-OCSP]**

### **Notice of Intent to Suspend Dimethyl Tetrachloroterephthalate (DCPA) Technical Registration**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice, pursuant the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), publishes a Notice of Intent to Suspend a pesticide registration issued by EPA containing dimethyl tetrachloroterephthalate (DCPA). The Notice of Intent to Suspend was issued following the Agency's January 21, 2013, issuance of a Data Call-In Notice (DCI), which required the registrant of the affected pesticide product containing DCPA to take appropriate steps to secure certain data. Following the registrant's failure to submit these data or to take other appropriate steps to secure the required data, the agency is unable to fully evaluate the risks associated with DCPA. Data for DCPA were determined to be required to maintain the existing registration of the affected product. In particular, due to the lack of complete data examining thyroid toxicity of DCPA, the Agency is not able to complete a scientifically robust and defensible human health risk assessment. Preliminary data evaluated by EPA provides evidence that, in animal studies, the fetus is potentially more sensitive to DCPA's effect on thyroid function compared to the mother. Given this potential fetal sensitivity, EPA has concerns for exposures to pregnant females and effects on the developing fetus. Based on EPA's review of the preliminary data, applying a standard uncertainty factor (typically a ten-fold factor) to account for these missing data may not be adequate to account for these effects. The failure of the registrant to comply with the thyroid toxicity and other data requirements of the DCPA DCI is a basis for suspension of the affected registration under FIFRA.

**DATES:** The Notice of Intent to Suspend included in this *Federal Register* notice will become a final and effective suspension order automatically by operation of law 30 days after the date of the registrant's receipt of the Notice of Intent to Suspend or, if the EPA Administrator otherwise is unable to accomplish delivery to the registrant after making reasonable efforts to do so, the Notice of Intent to Suspend becomes effective 30 days after the date of publication of this notice in the *Federal Register*, unless, during that time, a timely and adequate request for a hearing is made by a person adversely affected by the Notice of Intent to Suspend, or the registrant has satisfied the EPA Administrator that the registrant has complied fully with the requirements that served as a basis for the Notice of Intent to Suspend. Unit IV. explains what must be done to avoid suspension under this notice (i.e., how to request a hearing or how to comply fully with the requirements that served as a basis for the Notice of Intent to Suspend).

**FOR FURTHER INFORMATION CONTACT:** James Douglass, Pesticide Re-evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (202) 566-2343; email address: *douglass.james@epa.gov*.

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this Action Apply to Me?*

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

#### *B. How Can I Get Copies of this Document and Other Related Information?*

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2011-0374, is available at <http://www.regulations.gov> or at the Office of Pesticide

Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. Due to public health concerns related to COVID-19, the EPA/DC and Reading Room are open to the public by appointment only, and walk-ins are not allowed. Visitors to the Reading Room must complete docket material requests in advance and then make an appointment to retrieve the material. Please contact the EPA Reading Room staff at (202) 566-1744 or via the Dockets Customer Service email at *docket-customerservice@epa.gov* to arrange material requests and appointments. Please review the visitor instructions and additional information available at <https://www.epa.gov/dockets/epa-docket-center-and-reading-room-open-public-appointment-only>.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

## **II. Registrant Issued Notice of Intent to Suspend Active Ingredient, Product Affected, and Date Issued**

The registrant and product subject to this Notice of Intent to Suspend are listed in Table

1. A Notice of Intent to Suspend was sent to the registrant of the affected product.

**Table 1. -- List of Registrant and Product Subject to Suspension**

<b>Registrant Affected</b>	<b>Active Ingredient</b>	<b>EPA Registration Number</b>	<b>Product Name</b>	<b>Date EPA Issued Notice of Intent to Suspend</b>
AMVAC Chemical Corporation	DCPA (or chlorthal-dimethyl)	5481-495	TECHNICAL CHLORTHAL DIMETHYL	[INSERT DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i> ]

## **III. Basis for Issuance of Notice of Intent to Suspend; Requirement List**

The registrant failed to submit the data or information required by the Data-Call-In Notice (GDCI-078701-1140, available at <https://www.regulations.gov/document/EPA-HQ-OPP-2011-0374-0009>), or to take other appropriate steps to secure the required data for their pesticide product listed in Table 2 of this unit.

**Table 2. -- List of Requirements**

<b>EPA Registration Number</b>	<b>Guideline Number as Listed in Applicable DCI</b>	<b>Requirement Name</b>	<b>Date EPA Issued DCI</b>	<b>Date Registrant Received DCI</b>	<b>Final Data Due Date</b>	<b>Reason for Notice of Intent to Suspend</b>
5481-495	835.4200	Anaerobic soil metabolism (TPA)	January 31, 2013	January 31, 2013	January 31, 2015	Inadequate data received
5481-495	835.4300	Aerobic aquatic metabolism (TPA)	January 31, 2013	January 31, 2013	January 31, 2015	Inadequate 90-day response received. No data received
5481-495	835.4400	Anaerobic aquatic metabolism (TPA)	January 31, 2013	January 31, 2013	January 31, 2015	Inadequate 90-day response received. No data received
5481-495	850.1350	Chronic toxicity mysid (DCPA)	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate data received
5481-495	850.1350	Chronic toxicity mysid (TPA)	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate 90-day response received. No data received
5481-495	850.1400	Fish early life-stage (bluegill sunfish) (DCPA)	January 31, 2013	January 31, 2013	January 31, 2014	No data received
5481-495	850.1400	Fish early life-stage (sheepshead minnow) (DCPA)	January 31, 2013	January 31, 2013	January 31, 2014	No data received
5481-495	850.1400	Fish early life-stage	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate 90-day

		(rainbow trout) (TPA)				response received. No data received
5481-495	850.1400	Fish early life-stage (bluegill sunfish) (TPA)	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate 90-day response received. No data received
5481-495	850.1400	Fish early life-stage (sheepshead minnow) (TPA)	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate 90-day response received. No data received
5481-495	850.2100	Acute avian oral toxicity (passerine species) (DCPA)	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate data received
5481-495	850.4100	Seedling Emergence (DCPA) [lettuce only]	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate data received
5481-495	850.4500 (formerly 850.5400)	Algal toxicity test, Tier I/II (TPA) [marine diatom only]	January 31, 2013	January 31, 2013	January 31, 2014	Inadequate 90-day response received. No data received
5481-495	860.1300	Nature of the residue: poultry	January 31, 2013	January 31, 2013	January 31, 2015	Inadequate 90-day response received. No data received
5481-495	860.1340	Residue analytical method: livestock commodities	January 31, 2013	January 31, 2013	January 31, 2015	Inadequate 90-day response received. No data received
5481-495	860.1480	Meat/milk/ poultry/eggs	January 31, 2013	January 31, 2013	January 31, 2015	Inadequate 90-day response received. No data received

5481-495	860.1900	Field accumulation in rotational crops	January 31, 2013	January 31, 2013	January 31, 2016	Inadequate 90-day response received; inadequate data received
5481-495	Non-guideline	Chronic Sediment toxicity - <i>Chironomus</i> (DCPA)	January 31, 2013	January 31, 2013	January 31, 2015	Inadequate data received
5481-495	Non-guideline	Chronic Sediment toxicity - <i>Leptocheirus</i> (DCPA)	January 31, 2013	January 31, 2013	January 31, 2015	No data received
5481-495	Non-guideline	Comparative thyroid study (DCPA)	January 31, 2013	January 31, 2013	January 31, 2015	No data received

#### IV. How to Avoid Suspension under this Notice?

1. You may avoid suspension under this notice if you or another person adversely affected by this notice properly request a hearing within 30 days of your receipt of the Notice of Intent to Suspend or, if you did not receive the notice that was sent to you, then within 30 days from the date of publication of this *Federal Register* notice (see **DATES**). If you request a hearing, it will be conducted in accordance with the requirements of FIFRA section 6(d) (7 U.S.C. 136d) and the Agency's procedural regulations in 40 CFR part 164, to the extent applicable. Section 3(c)(2)(B) of FIFRA (7 U.S.C. 136a), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, any allegations of errors or unfairness in any proceedings before an arbitrator, and the risks and benefits associated with

continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding. Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held, and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your product. A request for a hearing pursuant to this notice must:

- Include specific objections which pertain to the allowable issues which may be heard at the hearing.
- Identify the registrations for which a hearing is requested.
- Set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing.

If a hearing is requested by any person other than the registrant, that person must also state specifically why he/she asserts that he/she would be adversely affected by the suspension action described in this notice. Instructions for filing a request for a hearing are available at [www.epa.gov/alj](http://www.epa.gov/alj). You may file your request for a hearing electronically by clicking on the link to “E-file using the electronic filing system,” or choose an alternative filing option by clicking on the link to “File by courier, mail or personal delivery.” If you intend to use the electronic filing system, EPA advises that you register in advance because there may be a 1-2 business day delay between when you register and when you will be able to upload documents into the system.

An additional copy should be sent to the person who signed this notice. The request must be received by the Hearing Clerk by the applicable 30<sup>th</sup> day deadline as measured from your receipt of the Notice of Intent to Suspend or publication of this notice, as set forth in **DATES** and in Unit IV.1., in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in

automatic suspension of your registration by operation of law and, under such circumstances, the suspension of the registration for your affected product will be final and effective at the close of business on the applicable 30<sup>th</sup> day deadline as measured from your receipt of the Notice of Intent to Suspend or publication of this notice, as set forth in **DATES** and in Unit IV.1., and will not be subject to further administrative review. The Agency's rules of practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Environmental Appeals Board, the EPA Administrator, the EPA Deputy Administrator, and the members of the staff in the immediate offices of the EPA Administrator and EPA Deputy Administrator. In addition, the Administrator may designate specific individuals in the immediate office of the Administrator and the Office of General Counsel as judicial staff for particular hearings. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within the applicable 30-day deadline period as measured from your receipt of the Notice of Intent to Suspend or publication of this notice, as set forth in **DATES** and in Unit IV.1., the Agency determines that you have taken appropriate steps to comply with the FIFRA section 3(c)(2)(B) DCI notice. In order to avoid suspension under this option, you must satisfactorily comply with Table 2. -- List of Requirements in Unit III., for the product by submitting all required supporting data/information described in Table 2 of Unit. III. and in the Explanatory Appendix (in the docket for this *Federal Register* notice) through CDX



via the DCI application of the Pesticide Submission Portal (PSP). If you have a CDX account with access to the PSP, you may follow the link below to sign in, acknowledge receipt, and access your DCI(s): <https://cdx.epa.gov/>.

A user guide is available for instructions on what to do if you do not have a CDX account or if you need to add PSP to your account:

[https://cdx.epa.gov/content/documents/PSP/OPP\\_CD\\_X\\_Pesticide\\_Submission\\_PortalRegistration\\_UserGuidev1.0p.pdf](https://cdx.epa.gov/content/documents/PSP/OPP_CD_X_Pesticide_Submission_PortalRegistration_UserGuidev1.0p.pdf).

For you to avoid automatic suspension under this notice, the Agency must also determine within the applicable 30-day deadline period that you have satisfied the requirements that are the bases of this notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product. The suspension of the registration of your company's product pursuant to this notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this notice. Such compliance may only be achieved by submission of the data/information described in Table 2 of Unit III.

## **V. Status of Products that Become Suspended**

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this notice, including all supplemental registrants of product listed in Table 1 of Unit II., may not legally distribute, sell, use (including use to formulate another pesticide product), offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product listed in Table 1 of Unit II, except for the purpose of disposal in accordance with all applicable federal, state and local requirements. Any distribution or sale by

the registrant subject to this notice, of a pesticide whose registration is suspended, is an unlawful act under section 12(a)(1)(A) of the FIFRA. Any other violation of the suspension order, including use to formulate another pesticide product, is an unlawful act under section 12(a)(2)(J) of FIFRA. Persons other than the registrant subject to this notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product listed in Table 1 of Unit II. Nothing in this notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product listed in Table 1 of Unit II. in any manner which would have been unlawful prior to the suspension.

It is the responsibility of the basic registrant to notify all supplementary registered distributors of a basic registered product that this suspension action also applies to their supplementary registered products. The basic registrant may be held liable for violations committed by their distributors.

Any questions about the requirements and procedures set forth in this notice or in the subject FIFRA section 3(c)(2)(B) DCI notice, should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT.**

**Authority:** 7 U.S.C. 136 *et seq*

Dated: April 21, 2022.

**Mary Elissa Reaves,**

*Director, Pesticide Re-Evaluation Division,*

*Office of Pesticide Programs.*

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